



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,798	10/16/2003	Richard A. Sunshine	US20000055-1	7931

173 7590 01/25/2007
WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER.
----------	---------------

1746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/686,798	SUNSHINE ET AL.	
	Examiner	Art Unit	
	Joseph L. Perrin, Ph.D.	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 2-9 and 25-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-24 and 45-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Re the claim rejections under 35 U.S.C. §112, first paragraph & 35 U.S.C. §112, second paragraph, applicant's arguments in view of the claim amendments are persuasive and the §112 rejections have been withdrawn.

2. Re the prior art rejections, applicant's arguments filed 27 November 2006 have been fully considered but they are not persuasive.

Turning to the rejection(s) of the claims under 35 U.S.C. § 102, it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir.

1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

Re the §102(b) over SANKA:

3. Re SANKA, applicant argues the intended use of SANKA in using "*either* a rotating drum type clothes dryer in the space (A) *or* using the space (A) with the air moving (30) but not *both*" pointing to paragraph [0032] of SANKA. Applicant's arguments are not commensurate in scope with the claimed invention. Applicant's

Art Unit: 1746

claim language does not positively recite a washer or clothes dryer but rather the claimed cabinet having “a clothes dryer discrete space so dimensioned to house a clothes dryer” solely positively recites a cabinet with a space capable of housing a clothes dryer (as with the similarly claimed “washer”) which reads on cabinet space capable of housing any size washer or dryer ranging from large industrial sized units to small portable sized units. Given the broadest reasonable interpretation taking into consideration the level and knowledge of ordinary skill in the art, applicant’s claimed cabinet contains “discrete spaces”, which simply read on voids of a cabinet structure. Such recitation is significantly broad in scope and is readable on any cabinet space capable of housing any known clothes dryer or washer ranging from industrial sized units to small portable units, such being common knowledge in the washing machine art to widely vary in size. Therefore, in construing whether SANKA reads on the claimed invention the question should be asked whether SANKA discloses a void which is capable of holding any known clothes dryer and the positively recited air moving device. Clearly, the space (A) of SANKA is fully capable of housing a clothes dryer and the positively recited air moving device. Applicant’s argument of the intended use of the SANKA reference does not negate this fact. On the contrary, the explicit disclosure that SANKA can be used to house a clothes dryer supports the Examiner’s position that SANKA is fully capable of housing, for instance, a smaller clothes dryer and the supplemental dryer. Therefore, regarding the recitations of the claimed cabinet “so dimensioned as to house a washer” and “so dimensioned as to house a clothes dryer”, these recitations are a statement of intended use which does not patentably distinguish

Art Unit: 1746

over SANKA since the cabinet of SANKA which includes spaces having minimal dimensions capable of housing a washer and clothes dryer meets all the structural elements of the claim(s) and is capable of housing a washer, clothes dryer, and supplemental dryer with an air moving device if so desired. See MPEP 2114. The Examiner further notes that while such language is considered to be definite, such language is considerably large in breadth and reads on any cabinet space having minimal dimensions capable of housing a known washer or a clothes dryer. The Examiner further notes that the terms “washer” and “clothes dryer” are broad and scope and read on small portable washers or clothes dryers, for instance, as evidenced by the portable washer of U.S. Patent No. 5,570,598 to HAVEN (portable washer sized to be compatible with a conventional kitchen sized pot) and the portable clothes dryers of RICE, U.S. Patent No. 5,555,648 to GRIFFIN, U.S. Patent No. 4,035,927 to SPIEGEL, U.S. Patent No. 3,739,492 to BROOKS & U.S. Patent No. 3,357,109 to HARVEY.

4. Applicant further argues that SANKA “discloses only two discrete spaces” and does not disclose three discrete spaces. The Examiner disagrees. The claimed “discrete space” only requires the capability to house a washer & clothes dryer (with the positive recitation of an air moving device) and is not structurally defined by separate cabinet walls. In fact, applicant in claim 48 specifically claims two discrete spaces forming one discrete space which is entirely contradictory to applicant’s position. Absent structural definition of the spaces, the claims read on a cabinet with an air moving device and voids capable of housing a washer & clothes dryer. Accordingly, recitation of SANKA reads on applicant’s claimed apparatus.

5. Regarding applicant's argument that even if two discrete spaces of claim 1 were construed as a single discrete space, SANKA does not disclose "a single space so dimensioned as to house a washing machine and a clothes dryer in addition to a supplemental drying discrete space". Firstly, the Examiner disagrees and submits that either space of SANKA is fully capable of any configurational intended use of housing a washer, dryer and air moving device as discussed above. Secondly, applicant's argument is not commensurate in scope with claim 1 as claim 1 does not claim this feature but rather claim 48 claims this feature.

6. Re claim 10, applicant argues that "[t]he Sanka partition cannot slide out of the cabinet assembly and be used to support items outside the cabinet assembly". This is not commensurate in scope with the claim as supporting items outside the cabinet assembly is not recited in the claim. The structural limitations of the slidable shelf of SANKA reads on applicant's claimed structure.

7. Re claim 20, applicant argues that "Sanka does not teach or suggest utilizing a perforated horizontal surface to support clothes." However, such intended use is not afforded patentable weight. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (emphasis in original) The openings on the horizontal surface shown in Figure 7 of SANKA read on the claimed structure of

Art Unit: 1746

a horizontal surface having a plurality of perforations. Accordingly, recitation of SANKA reads on claim 20.

8. Re claim 45, applicant argues that the panel and frame structure of SANKA is not implicit and "it is feasible for the panels to be directly connected to one another without a frame structure, such as by using fasteners, rivets, dove-tail joints, and the like". The Examiner agrees that such connections are feasible just as the panel and frame structure of claim 45 is feasible. Such conventional cabinet structures are all feasible and considered implicit, such being readily within the level and knowledge of one having ordinary skill in the art. The Examiner maintains the position that such cabinet structures are considered common knowledge in the cabinet making art, are well within the level and skill of one having ordinary skill in the cabinet making art and are implicit to the cabinet of SANKA. Accordingly, recitation of SANKA reads on claim 45.

Re the §102(b) over BALTES:

9. Re BALTES, while applicant's arguments do not deny the fact and agree that BALTES provides explicit teaching of a multi-spaced cabinet structure including a drying closet with fan for moving air (clearly illustrated in Figure 3 and relative associated text), applicant points to different dimensions and ratios of the spaces in BALTES and argues the cabinet does not anticipate the claimed invention, notwithstanding the fact that applicant's claims do not require specific dimensions and/or ratios. Given the immense breadth of the claimed invention (previously discussed) and given the requirement of

Art Unit: 1746

only a cabinet with space capable of housing a “washer” and “clothes dryer” (also previously discussed), one having ordinary skill in the art would clearly envisage the cabinet of BALTES being capable of performing the intended use of housing a washer and a clothes dryer. Applicant further argues that BALTES does not provide expressly disclose “panels”. The Examiner disagrees. Clearly, the Figures show a conventional cabinet including at least doors made up of “panels”. As previously noted, cabinets made of “panels” are common knowledge and not considered, in general, a point of novelty in the cabinet art.

10. Re claim 20, applicant argues that “Baltes does not teach or suggest utilizing a perforated horizontal surface to support clothes.” This is not persuasive because applicant’s argument heavily relies on intended use and the intended use of supporting clothes in the claimed apparatus is not afforded patentable weight. The surface of BALTES readable on a “perforated horizontal surface” is fully capable of performing the claimed intended use of supporting clothes since all structures of BALTES are capable of “supporting clothes”. The Examiner finds nothing novel in a structure which is capable of “supporting clothes” since all types of structures would be capable of performing this intended use. Moreover, the Examiner notes that horizontal surfaces (14) of BALTES appear to also read on claim 20. Accordingly, claim 20 is not patentable over BALTES.

11. Re claim 45, applicant argues that the panel and frame structure of BALTES is not implicit and “it is feasible for the panels to be directly connected to one another without a frame structure, such as by using fasteners, rivets, dove-tail joints, and the

like". The Examiner agrees that such connections are feasible just as the panel and frame structure of claim 45 is feasible. Such conventional cabinet structures are all feasible and considered implicit, such being readily within the level and knowledge of one having ordinary skill in the art. The Examiner maintains the position that such cabinet structures are considered common knowledge in the cabinet making art, are well within the level and skill of one having ordinary skill in the cabinet making art and are implicit to the cabinet of BALTES. Accordingly, recitation of BALTES reads on claim 45.

12. Re claim 48, applicant argues that the washer discrete space and clothes dryer discrete space forming one discrete space is not shown in BALTES. As discussed above regarding the claimed cabinet void only requiring being capable of housing any size washer or clothes dryer, the position is taken that at least one cabinet space in BALTES is capable of housing both a portable washer and portable clothes dryer as discussed above. Accordingly, BALTES reads on the apparatus of claim 48.

**Re the §103(a) rejection over SANKA in view of PROCTOR, as evidenced by
BALTES and CHAN:**

13. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

Art Unit: 1746

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, SANKA and PROCTOR, in the aggregate, clearly disclose the claimed structure for the same purpose as would be readily with the level and knowledge generally available to one of ordinary skill in the art. Thus, providing the laundry cabinet of SANKA with the slidable drying drawers of PROCTOR for their intended purpose, which one having ordinary skill in the art would recognize as essentially the same purpose of applicant, is not merely “generalized reasons” as alleged by applicant but rather evidence for proper motivation. Clearly, it would have been within the level and knowledge of one having ordinary skill in the art to combine the drying cabinet of SANKA with the drying cabinet of PROCTOR into a single integrated cabinet in order to arrive at applicant's invention. As evidenced by BALTES and CHAN, the concept of providing/building a cabinet with plural spaces is well known. Thus, the position is taken that combining the well known drying cabinets of SANKA and PROCTOR would have been within the level and knowledge of one having ordinary skill in the art. It is well settled that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177 (BPAI 1969); *In re Wolfe* 116 USPQ 443; *In re Howard*, 150 U.S. 164 (1893).

14. Applicant further argues that since each of SANKA and PROCTOR do not disclose the claimed two separate drying functions “either as one piece or two pieces”. Contrary to this position, this is precisely what SANKA and PROCTOR disclose. As

previously cited, SANKA and PROCTOR, in the aggregate, disclose cabinets with the two separate drying functions. Thus, simply integrating the cabinets into a single cabinet capable of performing both functions is considered an obvious modification well within the level of ordinary skill in the art, as held by the courts.

15. Re applicant's argument that "[f]ollowing this logic, every claim that consists of elements found in the prior art in multiple references is unpatentable", this argument completely mischaracterizes the Examiner's position. Contrary to applicant's assertion, following applicant's logic would suggest that any combination of well known components for their intended purpose is patentable, which undermines 35 USC §103(a). Clearly, this is not the case since the statute under §103 is well established. Applicant's generalized arguments fail to explain how combining two well known laundry cabinets with two different drying functions into a single cabinet with the two drying functions for the purpose of providing a single cabinet with the two drying functions is non-obvious. Moreover, applicant is silent with respect to any evidence or showing of secondary considerations. Accordingly, the obviousness rejection is maintained.

Re claim 11, applicant argues that PROCTOR does not disclose the claimed shelf. The Examiner disagrees. Applicant's arguments are solely directed to the intended use of the claimed apparatus. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (emphasis in original) Clearly, the slidable shelf

disclosed in PROCTOR contains sufficient structure to be capable of performing applicant's claimed intended use and is considered to read on applicant's claimed invention.

16. Re claim 21, applicant essentially repeats arguments for claim 11 and argues that PROCTOR does not disclose the claimed horizontal drying discrete space. This is not persuasive because as can be clearly seen in the Figures of PROCTOR, there is disclosed sufficient structure readable on applicant's claimed structure.

17. Re claims 22 & 23, applicant essentially repeats arguments for claim 21. This is not persuasive for at least reasons indicated for claim 21.

18. Re claim 24, applicant argues that PROCTOR does not disclose the claimed decorative fascia. This is not persuasive because, as clearly indicated in the rejection, SANKA is cited for the well known concept in the cabinet art of using decorative fascia and given the level and knowledge of one having ordinary skill in the art it would have been obvious to provide decorative fascia for its well known purpose of providing aesthetically pleasing decoration to a cabinet.

Re the §103(a) rejection over SANKA or BALTES in view of RICE:

19. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant specifically argues that the Examiner's motivation of "improved, more efficient drying of hollow articles, such as shoes...merely provides a generalized, unsupported reason for making the combination". On the contrary, the use of the boot drying apparatus of RICE for its intended function (i.e. drying boots/shoes) appears to be the same motivation of applicant for using a shoe dryer. Clearly, the use of a shoe dryer for drying shoes (i.e. the purpose disclosed in RICE) would have been well within the knowledge generally available to one of ordinary skill in the art. Clearly, the use of shoe dryers to dry shoes is well known in the art and, absent secondary considerations, the combination of the drying cabinets disclosed in SANKA or BALTES with the shoe dryer in RICE for the purpose of providing a drying cabinet with better shoe drying ability would have been an obvious modification taking into consideration the level and knowledge of one having ordinary skill in the art.

20. Applicant's arguments that the portability of RICE somehow "would destroy the intended purpose of Rice" are not persuasive. In fact, the portability of RICE supports the Examiner's position since there would be a reasonable expectation of success in providing portable shoe dryers to the cabinet of SANKA or BALTES to arrive at applicant's invention.

21. Re applicant's repeated argument regarding the SANKA/PROCTOR rejection in view of BALTES or CHAN, this is not persuasive for reasons of same previously indicated.

22. Finally, applicant's arguments that the combination fails because the rejection of claim 1 over SANKA or BALTES fails is not persuasive because the rejection of claim 1 is deemed proper for at least reasons of record indicated above.

Claim Rejections - 35 USC § 102

23. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

24. Claims 1, 10, 12-14, 20, 45-47, 49 & 56 are rejected under 35 U.S.C. 102(b) as being anticipated by SANKA (previously cited). Re claims 1, 46, 47, & 56, SANKA discloses (for instance in Figures 1-7 and relative associated text) a laundry cabinet assembly with interconnecting panels defining spaces including a discrete space capable of housing a washer 40, a discrete space A capable of housing a "clothes dryer", a plurality of removable exterior decorative fascia panels 21-23 (fancy plywood), and an air moving device arranged to deliver air into and out of its own discrete space and at least part of space A (see air circuit dehumidification system of clothes dryer 30 in paragraphs [0030] – [0032]). Re claim 10, SANKA discloses a slidable shelf 70 (see paragraph [0023]). Re claims 12-13, SANKA further discloses a rod in the supplemental drying space for supporting clothes on a hanger (see Figure 6 and paragraph [0025]). Re claim 14, SANKA further discloses the cabinet having an open

front side with cover panels 50/60 (see paragraph [0025] and Figures). Re claim 20, SANKA further discloses a perforated horizontal surface on the bottom of the drying space (see Figure 7). Re claim 45, SANKA discloses the cabinet being formed by installing panels 21-23 (see paragraphs [0014] & [0019]) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto.

Regarding what is meant by "discrete space", it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. 5 102(b) is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re*

Art Unit: 1746

Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

Thus, applicant's claimed "discrete space" limitations of the cabinet are construed to read on any void in a cabinet having a minimum size (i.e. "sized to house") capable of housing a "washer", a "clothes dryer", and an "air moving device". Such discrete spaces are not limited or defined by individual walls defining each space but rather are given their broadest reasonable interpretation which reads on plural discrete spaces which cumulatively define a single discrete space. Clearly, this scope is contemplated by applicant given the fact that claim 48 recites two discrete spaces forming a single discrete space.

Accordingly, recitation of SANKA reads on each and every structural limitation of applicant's claimed invention as cited above.

25. Claims 1, 12-16, 20, 45-49 & 56 are rejected under 35 U.S.C. 102(b) as being anticipated by BALTES. BALTES discloses an integrated cabinet comprising plural discrete spaces and a dryer 1 having an air moving device 11 arranged to deliver air to the dryer space via an inlet and outlet, interconnecting panels on the cabinet which read on “exterior decorative fascia panels”, hanger rods 30, an open front with cover panel (door 7), the hanging device with rods 30 being slidable inward and outward (see Figures 5-6), fans 11 readable on a horizontal surface with a plurality of perforations (top openings of the fans) which permit air to pass through to the space, and the cabinet being formed by panels (see Figure 13) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto (see Figures 1-2, 13 and relative associated text). Re claim 48, the single space adjacent dryer 1 (see Figure 13) reads on the claimed combination of spaces to form a single space since the adjacent single space appears to be fully capable of performing the claimed intended use. (see also above regarding applicant’s claimed “discrete space” limitations). The intended use of the spaces for a “washer” and “clothes dryer” are not afforded significant patentable weight (see intended use discussion above). A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the integrated laundry assembly in Figure 13 of BALTES contains discrete spaces which are fully capable of housing a “washer” and a “clothes

dryer". This would be readily evident to one having ordinary skill in the art.

Furthermore, the Examiner notes that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Accordingly, recitation of BALTES reads on applicant's claimed apparatus.

26. Claims 50-56 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,510,778 to COTTON. Re claims 50-56, COTTON teaches an integrated cabinet assembly having panels (col. 2, line 52 *et seq.*) defining plural spaces including a washer housed in a washer space (59) and a clothes dryer housed in a dryer space (55) readable on collectively defining a space and being in a side-by-side configuration, and another dryer housed in another drying space (see, for instance, Figure 6). Re the frame and panel limitations, the Examiner takes the position that a frame to support the cabinet is implicitly taught, such being well recognized by one having ordinary skill in the art to be common knowledge in the cabinet making art, and is well within the level and knowledge of one having ordinary skill in the cabinet making art. While COTTON does not expressly disclose the dryer having an air moving device, the position is taken that a dryer having an air moving device is an implicit teaching and common knowledge in the appliance art.

Claim Rejections - 35 USC § 103

27. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

28. Claims 11, 15-16 & 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of PROCTOR (previously cited), as evidenced by U.S. Patent No. 3,811,198 to BALTES and CHAN (previously cited). Recitation of SANKA is repeated here from above. Although SANKA does disclose a drying space in the cabinet and a slidable shelf/rack, SANKA does not expressly disclose multiple slidable shelves/racks. PROCTOR teaches that it is well known to provide a drying cabinet with slidable drawers for supporting articles to be dried as well as accessing/extracting the article before and after drying (see page 2, line 1 *et seq.* of PROCTOR). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA with the slidable drawers of PROCTOR for the purpose of providing support and easy access to a plurality of articles which are to be dried. The courts have held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177 (BPAI 1969); *In re Wolfe* 116 USPQ 443; *In re Howard*, 150 U.S. 164 (1893). The drawers of PROCTOR read on applicant's claimed "slidable shelves", "slidable rack" and "shoe dryer". Moreover, there would be a reasonable expectation of success for one having ordinary skill in the washing machine art to modify the washing machine cabinet of SANKA with its common knowledge functionality for washing and drying

clothes by combining the washing machine cabinet components of PROCTOR with its common knowledge functionality of drying clothes using a drying cabinet with slidable drawers for supporting articles to be dried in order to arrive at applicant's claimed invention. The combining of the common knowledge washing/drying cabinet components of SANKA and PROCTOR to arrive at applicant's integrated laundry center would be within the level and skill of one having ordinary skill in the art at the time the invention was made in order to provide a laundry center with comprehensive washing and drying functionality. This can be evidenced by BALTES which discloses a common knowledge drying component integrated in a multi-spaced cabinet system. Such integration can also be evidenced, for instance, by CHAN which teaches that it is well known in the art to provide a modular cabinet system which can be constructed in various combinations with plural discrete spaces of various sizes, shapes and drawers as well as duplicate parts to form an integrated cabinet assembly (see, for instance, the abstract and Figures). Accordingly, the position is taken that forming a multi-spaced laundry cabinet with the common knowledge functional components of SANKA and PROCTOR would be well within the level and knowledge of one having ordinary skill in the art at the time the invention was made. It is further noted that the use of the drawers are considered intended use and given little weight.

29. The Examiner notes that the record is silent with respect to any objective evidence regarding secondary considerations (i.e. objective evidence of non-obvious such as unexpected results)

30. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA or BALTES in view of RICE (previously cited) as evidenced by BALTES and CHAN. Recitation of SANKA and BALTES are repeated here from above. Although SANKA and BALTES do disclose a drying space in the cabinet, SANKA and BALTES does not expressly disclose shoe dryers. RICE teaches that it is well known to dry hollow articles such as boots and gloves using dryers by inserting heated air into the articles (col. 1, line 13 *et seq.*) and further discloses a portable dryer for such hollow articles with convenient portability and storage, the portable dryer having a bottom support 134, a stem portion 22 for insertion into the hollow article to be dried, an air flow outlet at the end of the stem 116/117, and an air moving device 16 (see col. 1, lines 7-11 & Figures 1-2, 6, and relative associated text). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA and BALTES with the portable shoe dryers of RICE for the purpose of improved, more efficient drying of hollow articles such as shoes. The combining of the common knowledge washing/drying cabinet components of SANKA/BALTES and RICE to arrive at applicant's integrated laundry center would be within the level and skill of one having ordinary skill in the art at the time the invention was made in order to provide a laundry center with comprehensive washing and drying functionality. This can be evidenced by BALTES which discloses a common knowledge drying component integrated in a multi-spaced cabinet system. Such integration can also be evidenced, for instance, by CHAN which teaches that it is well known in the art to provide a modular cabinet system which can be constructed in

various combinations with plural discrete spaces of various sizes, shapes and drawers as well as duplicate parts to form an integrated cabinet assembly (see, for instance, the abstract and Figures). Accordingly, the position is taken that forming a multi-spaced laundry cabinet with the common knowledge functional components of SANKA/BALTES and RICE would be well within the level and knowledge of one having ordinary skill in the art at the time the invention was made.

31. The Examiner notes that the record is silent with respect to any objective evidence regarding secondary considerations (i.e. objective evidence of non-obvious such as unexpected results)

Conclusion

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

33. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

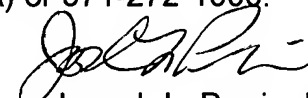
Art Unit: 1746

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

36. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP